

**AN ORDINANCE  
BY CITY UTILITIES COMMITTEE**

**AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE DOCUMENTS FOR THE ACQUISITION OF CERTAIN PERMANENT EASEMENTS, TEMPORARY CONTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS ASSOCIATED WITH SANDY CREEK BASIN PROJECTS, PROCTOR CREEK BASIN PROJECTS, SOUTH RIVER BASIN PROJECTS, SUGAR CREEK BASIN PROJECTS, LONG ISLAND BASIN PROJECTS, NANCY CREEK BASIN PROJECTS, PEACHTREE CREEK BASIN PROJECTS, UTOY CREEK BASIN PROJECTS, AND INTRENCHMENT CREEK BASIN PROJECTS; TO NEGOTIATE WITH PROPERTY OWNERS TO ACQUIRE NECESSARY PERMANENT EASEMENTS, TEMPORARY CONTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS, INCLUDING CONDEMNATION PROCEEDINGS; AUTHORIZING THE WAIVER OF APPLICABLE PORTIONS OF ARTICLE X OF THE CITY'S THE REAL ESTATE AND PROCUREMENT CODE; AUTHORIZING THE CITY ATTORNEY TO PROCEED WITH THE DECLARATIONS OF TAKING METHOD AUTHORIZED BY O.C.G.A. §§22-3-140 AND 32-3-4 TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE CAPACITY RELIEF SEWER PROJECTS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT; ALL CONTRACTED WORK AND PAYMENTS FOR PROPERTY INTERESTS WILL BE CHARGED TO AND PAID FROM THE APPROPRIATE ACCOUNT NUMBERS ASSOCIATED WITH FUNDS 5052 (WATER & WASTEWATER RENEWAL & EXTENSION), 5057 (2001 WATER & WASTEWATER BOND FUND), 5058 (2004 WATER & WASTEWATER BOND FUND), AND FUTURE WATER AND SEWER BOND FUNDS; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") is responsible for maintaining and servicing the City's sewer system and is under stringent time restraints for performing the capacity relief work of the City's sewer system per the Consent Decree and First Amended Consent Decree ("Consent Decree"); and

**WHEREAS**, the Department of Watershed Management has identified the need at times to acquire temporary construction easements, permanent easements, rights of entry, rights-of-way and other property interests (collectively, "Property Interests"), when capacity relief work cannot be performed within the boundaries of the City's existing permanent easements, as part of work associated with the Sandy Creek Basin Projects, Proctor Creek Basin Projects, South River Basin Projects, Sugar Creek Basin Projects, Long Island Basin Projects, Nancy Creek Basin Projects, Peachtree Creek Basin Projects, Utoy Creek Basin Projects, and Intrenchment Creek Basin Projects (collectively, "Capacity Relief Sewer Projects"); and

**WHEREAS**, all acquisitions of Property Interests must be commenced and completed in a timely manner in order to meet the scheduling requirements of the Consent Decree and the acquisition of required property interests on an expedited basis is deemed vital to the City; and

**WHEREAS**, in order to acquire the necessary Property Interests, it is in the City's best interest to allow the Mayor or her designee the authority to negotiate with property owners to acquire necessary Property Interests and/or exchange such Property Interests to complete the Capacity Relief Sewer Projects; and

**WHEREAS**, the Procurement and Real Estate Code of the City Code of Ordinances outlines the process for appraising, negotiating and purchasing property by the City, and the purchase price must be no less than the fair market value of the property as listed in the property appraisal, creating the established just compensation ("EJC") value of the property; and

**WHEREAS**, there are occurrences when real property is listed for sale at a lower price than the appraised value; and

**WHEREAS**, during these occurrences when real property is currently listed for a lower price than the appraised value it is in the City's best interest to purchase the real property for the lower stated value, allowing the property owner to establish the EJC value of the property via the lower listed property sale price; and

**WHEREAS**, O.C.G.A. §§22-3-140 and 32-3-4 allow the declaration of taking method of condemnation to be used for acquisition of private property for, among other things, public sewage collection, treatment, and disposal system purposes as provided in Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:**

**SECTION 1:** That the Mayor or her designee is authorized to negotiate with the affected property owners and perform other actions to acquire the temporary construction easements, permanent easements, rights of entry, rights-of-way and other property interests necessary to complete the Capacity Relief Sewer Projects on behalf of the City without further authorization by the City Council.

**SECTION 2:** That the requirements of City Code Sections 2-1517, 2-1541, and 2-1545 of the Procurement and Real Estate Code are hereby waived to the extent that such applies to the authority granted herein to acquire temporary construction easements, permanent easements, rights of entry, rights-of-way and other property interests for the Capacity Relief Sewer Projects.

**SECTION 3:** That the Mayor or her designee is authorized to obtain appraisals to establish the estimated just compensation ("EJC") to be offered affected property owners in connection with the Capacity Relief Sewer Projects' acquisitions, as described herein.

**SECTION 4:** That the Mayor or her designee is authorized to purchase Property Interests at a price lower than the appraised value if that lower price.

**SECTION 5:** That the City and its Chief Procurement Officer or his designee are authorized to settle acquisitions of Property Interests in an amount not to exceed ten percent (10%) above the

EJC, and offer an amount not to exceed Two Hundred Fifty Dollars and No Cents (\$250.00) more than the EJC, when the EJC is less than Two Thousand Five Hundred Dollars and No Cents (\$2,500.00)

**SECTION 6:** That the City's Chief Procurement Officer or his designee is authorized to administratively settle acquisitions which exceed these limitations without further authorization from Council, in an amount not to exceed twenty percent (20%) above the EJC, or for Five Hundred Dollars and No Cents (\$500.00) when the EJC is below Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), whichever is greater.

**SECTION 7:** That if negotiations with affected property owners are successful, the Mayor or her designee is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of the Property Interests in connection with the Capacity Relief Sewer Projects without further authorization from City Council.

**SECTION 8:** The City Attorney or her designee is authorized to monitor and supervise the closing transactions with affected property owners in connection with the Capacity Relief Sewer Projects, with the assistance of the City's real estate acquisition consultant.

**SECTION 9:** That if the affected property owners reject the options, and negotiations fail with such owners, the Mayor or her designee, with the assistance of the City Attorney, are authorized to use all means necessary and within their power, up to and including condemnation, to acquire the necessary Property Interests, without further authorization from City Council.

**SECTION 10:** That circumstances are such that at times it will be necessary to proceed with the declarations of taking as a method of condemnation, as authorized by O.C.G.A. §§22-3-140 and 32-3-4, for the construction and completion of the Projects; that the City Attorney is authorized to institute condemnation proceedings pursuant to this declaration of taking method authorized by O.C.G.A. §§22-3-140 and 32-3-4 to acquire title to easements and other related property interests necessary for the construction of the Projects, provided that such authority shall not include taking action to condemn whole parcels of land that include homesteads.

**SECTION 11:** That the City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

**SECTION 12:** That the costs associated with this Ordinance shall be charged to and paid from the appropriate Account Numbers associated with Funds 5052 (Water & Wastewater Renewal & Extension), 5057 (2001 Water & Wastewater Bond Fund), 5058 (2004 Water & Wastewater Bond Fund), and future Water and Sewer bond funds.

**SECTION 13:** That all ordinances or parts of ordinances in conflict with this are waived to the extent of the conflict.

**Part II: Legislative White Paper:** (This portion of the Legislative Request Form will be shared with City Council members and staff)

**A. To be completed by Legislative Counsel:**

**Committee of Purview:** City Utilities Committee

**Caption:** AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE DOCUMENTS FOR THE ACQUISITION OF CERTAIN PERMANENT EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS ASSOCIATED WITH SANDY CREEK BASIN PROJECTS, PROCTOR CREEK BASIN PROJECTS, SOUTH RIVER BASIN PROJECTS, SUGAR CREEK BASIN PROJECTS, LONG ISLAND BASIN PROJECTS, NANCY CREEK BASIN PROJECTS, PEACHTREE CREEK BASIN PROJECTS, UTOY CREEK BASIN PROJECTS, AND INTRENCHMENT CREEK BASIN PROJECTS; TO NEGOTIATE WITH PROPERTY OWNERS TO ACQUIRE NECESSARY PERMANENT EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS, INCLUDING CONDEMNATION PROCEEDINGS; AUTHORIZING THE WAIVER OF APPLICABLE PORTIONS OF ARTICLE X OF THE CITY'S THE REAL ESTATE AND PROCUREMENT CODE; AUTHORIZING THE CITY ATTORNEY TO PROCEED WITH THE DECLARATIONS OF TAKING METHOD AUTHORIZED BY O.C.G.A. §§22-3-140 AND 32-3-4 TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE CAPACITY RELIEF SEWER PROJECTS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT; ALL CONTRACTED WORK AND PAYMENTS FOR PROPERTY INTERESTS WILL BE CHARGED TO AND PAID FROM THE APPROPRIATE ACCOUNT NUMBERS ASSOCIATED WITH FUNDS 5052 (WATER & WASTEWATER RENEWAL & EXTENSION), 5057 (2001 WATER & WASTEWATER BOND FUND), 5058 (2004 WATER & WASTEWATER BOND FUND), AND FUTURE WATER AND SEWER BOND FUNDS; AND FOR OTHER PURPOSES.

**Council Meeting Date:** March 17, 2008

**Requesting Dept.:** Watershed Management

**B. To be completed by the department:**

**1. Please provide a summary of the purpose of this legislation (Justification Statement).**

***Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.***

This legislation would authorize appraisals, negotiations, acquisitions, and if necessary, condemnations of permanent easements, temporary construction easements, and if necessary fee parcels, on Capacity Relief Sewer Projects. This legislation will also waive the code when the property owner has listed the property for sale (privately or publicly) in fee at a price lower than the City's appraised value, thereby creating the property owner's own Established Just

Compensation value, which the City may use for their offer to purchase the property.

**2. Please provide background information regarding this legislation.**

***Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.***

This legislation will facilitate construction of the Consent Decree and First Amended Consent Decree Capacity Relief Sewer Projects timely, the legislation would authorize appraisals, negotiations, acquisitions, and if necessary, condemnations of permanent easements, temporary construction easements, and if necessary fee parcels, on Capacity Relief Sewer Projects to include:

Sandy Creek Basin Projects

Proctor Creek Basin Projects

South River Basin Projects

Sugar Creek Basin Projects

Long Island Basin Projects

Nancy Creek Basin Projects

Peachtree Creek Basin Projects

Utoy Creek Basin Projects

Intrenchment Creek Basin Projects

**3. If Applicable/Known:**

- (a) Contract Type (e.g. Professional Services, Construction Agreement, etc):
- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents:
- (h) Term of Contract:

**4. Fund Account Center (Ex. Name and number):**

Fund: \_\_\_\_\_ Account: \_\_\_\_\_ Center: \_\_\_\_\_

**5. Source of Funds:** *Example: Local Assistance Grant* Costs associated with this Ordinance will be charged to and paid from the appropriate accounts and centers of Funds 2J21, 2J27, 2J28, and future Water and Sewer bond funds.

**6. Fiscal Impact:** Costs associated with this Ordinance will be charged to and paid from the appropriate accounts and centers of Funds 2J21, 2J27, 2J28, and future Water and Sewer bond funds.

*Example: This legislation will result in a reduction in the amount of \_\_\_\_\_ to Fund Account Center Number \_\_\_\_\_.*

**7. Method of Cost Recovery:**

**Examples:**

- a. *Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.*
- b. *Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.*

**This Legislative Request Form Was Prepared By: George D. Barnes**

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: \_\_\_\_\_ Maisha L. Wood \_\_\_\_\_

Contact Number: \_\_\_\_\_ (404) 330-6887 \_\_\_\_\_

Originating Department: \_\_\_\_\_ Department of Watershed Management \_\_\_\_\_  
Committee(s) of Purview: \_\_\_\_\_ City Utilities Committee \_\_\_\_\_

Chief of Staff Deadline: \_\_\_\_\_ February 27, 2008 \_\_\_\_\_

Anticipated Committee Meeting Date(s): \_\_\_\_\_ March 11, 2008 \_\_\_\_\_

Anticipated Full Council Date: \_\_\_\_\_ March 17, 2008 \_\_\_\_\_

Legislative Counsel's Signature: \_\_\_\_\_

SC Commissioner Signature: \_\_\_\_\_ Robert J. Hunter \_\_\_\_\_

Chief Procurement Officer Signature: \_\_\_\_\_ N/A \_\_\_\_\_

**CAPTION**

AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE DOCUMENTS FOR THE ACQUISITION OF CERTAIN PERMANENT EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS ASSOCIATED WITH SANDY CREEK BASIN PROJECTS, PROCTOR CREEK BASIN PROJECTS, SOUTH RIVER BASIN PROJECTS, SUGAR CREEK BASIN PROJECTS, LONG ISLAND BASIN PROJECTS, NANCY CREEK BASIN PROJECTS, PEACHTREE CREEK BASIN PROJECTS, UTOY CREEK BASIN PROJECTS, AND INTRENCHMENT CREEK BASIN PROJECTS; TO NEGOTIATE WITH PROPERTY OWNERS TO ACQUIRE NECESSARY PERMANENT EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS, INCLUDING CONDEMNATION PROCEEDINGS; AUTHORIZING THE WAIVER OF APPLICABLE PORTIONS OF ARTICLE X OF THE CITY'S THE REAL ESTATE AND PROCUREMENT CODE; AUTHORIZING THE CITY ATTORNEY TO PROCEED WITH THE DECLARATIONS OF TAKING METHOD AUTHORIZED BY O.C.G.A. §§22-3-140 AND 32-3-4 TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE CAPACITY RELIEF SEWER PROJECTS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT; ALL CONTRACTED WORK AND PAYMENTS FOR PROPERTY INTERESTS WILL BE CHARGED TO AND PAID FROM THE APPROPRIATE ACCOUNT NUMBERS ASSOCIATED WITH FUNDS 5052 (WATER & WASTEWATER RENEWAL & EXTENSION), 5057 (2001 WATER & WASTEWATER BOND FUND), 5058 (2004 WATER & WASTEWATER BOND FUND), AND FUTURE WATER AND SEWER BOND FUNDS; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any):

Mayor's Staff Only

Received by CPO: \_\_\_\_\_ Received by LC from CPO: \_\_\_\_\_  
(date) (date)

Received by Mayor's Office: 2/29/08 Reviewed by: [Signature]  
(date) (date)

Submitted to Council: \_\_\_\_\_  
(date)